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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,726	07/01/2003	Robert Bradley Cook	621.007	5723

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PERRET DOISE
A PROFESSIONAL LAW CORPORATION
P.O. Box 3408
LAFAYETTE, LA 70502-3408

EXAMINER

SMITH, MATTHEW J

ART UNIT PAPER NUMBER

3672

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/612,726	Applicant(s) COOK ET AL.	
	Examiner Matthew J. Smith	Art Unit 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8,11-17,21,24,30,32,34,37-41,43,44,46-52 and 55-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,8,11-17,21,24,30,32,34,37-41,43,44,46-52,55-57 and 60-64 is/are allowed.
- 6) ☒ Claim(s) 58 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 59 recites the limitation "the shoulder" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 58 is rejected under 35 U.S.C. 102(b) as being anticipated by McCullough et al. (3314479).

McCullough et al. disclose a down hole device comprising: an outer tubular member 15 having a series of spiral slots 14 therein, the slots being arranged about the exterior of the outer tubular member at an angle of inclination of between 25 degrees to 45 degrees (see figure 3B); an inner member 45 disposed within the outer tubular member; means for moving the outer tubular member in a first direction in order to subject the outer tubular member to a downward force (col. 4, lines 54-55) so that the outer tubular member is expanded along the slots; a setting tool having a setting sleeve 17 operatively associated with the outer tubular member and a mandrel 46 being connected to the inner member, the mandrel causes an upward force (col. 4, line 55)

against the bottom end of the outer tubular member and the setting sleeve causes a downward force against the top end of the outer tubular member so that the outer tubular member expands; and stroke limit means (top of head 33, or top of sleeve 60) for limiting mandrel movement.

Allowable Subject Matter

Claims 1, 8, 11-17, 21, 24, 30, 32, 34, 37-41, 43, 44, 46-52, 55-57, and 60-64 are allowed.

Response to Arguments

Applicant's arguments, see page 20, filed 9 December 2005, with respect to claims 1, 2, 4, 6, 8, 9, 17, 22, 24, 27, 30, 32, 41, and 52 have been fully considered and are persuasive. The 35 U.S.C. 102 and 103 rejections of claims 1, 2, 4, 6, 8, 9, 17, 22, 24, 27, 30, 32, 41, and 52 have been withdrawn.

The examiner contends the top of head 33 (Fig. 1B) or the shoulders at the top of sleeve 66 (Fig. 1A) limits the movement of rod 38.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simpson et al. (6896052) and Slack (6904974) reveal spiral, slotted, expandable, tubing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is 571-272-7034. The examiner can normally be reached on T-F, 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Bagnell
Supervisory Patent Examiner
Art Unit 3672

MJS *MJS*
13 January 2006